IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4092 OF 2007

Sudhir Yeshwant Phadke ..Petitioner.
Vs.
M/s. Rupee Co-op. Bank Ltd. & Ors. ..Respondents.

Mr.Sandesh Patil i/b Prashant Jadhav, advs. for the Petitioner.

CORAM : J.H.BHATIA, J.
DATE : JULY 4, 2007.

P.C.

1. Heard Mr.Patil the learned counsel for the Petitioner.

2. Respondent no.2 had taken certain loan from the respondent no.1/Co-operative Bank and the present petitioner was one of the guarantors for repayment of the said amount. As the borrower failed to make payment, on application filed by the respondent no.1, Deputy Registrar of Co-operative Societies issued a certificate for recovery of certain amount under Section 101 of the Maharashtra Co-operative Societies Act against the borrower as well as both the guarantors. Thereafter, he filed Revision Application, which came to be dismissed by the learned Divisional Joint Registrar by the impugned order dated 29-3-2006. It appears that the contention of the petitioner before the Joint Registrar was that the amount should be first

recovered from the borrower and if the respondent no.1 fails to recover whole of the amount from the borrower, then only recovery should be made from the petitioner. This contention was rejected by the Joint Registrar holding that the borrower as well as guarantors are jointly and severally liable and the liability of the guarantors is equal to the liability of the borrower. This order is challenged in the present petition.

3. After some discussion, the learned counsel for the petitioner makes a statement that the petitioner does not deny his liability to make payment and according to him, for some time amount of Rs.1900/- per month was deducted from his salary and from August, 2005 to July, 2006, amount of Rs.2,000/- per month was deducted from his salary. He has produced certificate from Bank of Maharashtra, Vartak Nagar, Thane showing that an amount of Rs.96,200/- has been recovered from the salary of the petitioner. The learned counsel for the petitioner states that he apprehends that the society is making a recovery in excess of the amount actually due from him under the recovery certificate issued under Section 101. According to him, the respondent no.1 should be directed to furnish statement of accounts to him to show as to how the dues have been calculated after issuance of the recovery certificate and how the amount recovered from his salary have been

appropriated. In my opinion, this purpose can be served by giving certain directions without notice to the respondent.

4. Respondent no.1 shall furnish statement of accounts to the petitioner showing as to how the amount due from the petitioner has been calculated particularly from the time when the recovery certificate was issued by the Deputy Registrar and as to how amounts deducted from the salary of the petitioner are appropriated. If the respondent no.1 has already recovered more than the dues, the petitioner shall be entitled to refund of that amount and if the whole amount is not yet recovered, the respondent no.1 shall inform the petitioner in writing about the amount which is still due.

5. With these directions, petition stands disposed off.

[J.H.BHATIA, J.]